



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

FINAL MINUTES Regular Land Board Meeting May 9, 2000

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 9, 2000 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable State Controller J. D. Williams
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Stanley F. Hamilton

Attorney General Alan Lance participated in the meeting via conference phone. Secretary of State Cenarrusa left the meeting at 10:25 a.m.

• **CONSENT AGENDA**

Director Hamilton provided background information on the Consent Agenda. Timber Sale Agenda Item 2C – South Fork Olive Creek – was withdrawn. No objection was voiced.

A motion was made by State Controller Williams to approve the Consent Agenda with Item 2C withdrawn. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

1. Official Transactions – approved

- A. Interest Rate Report
- B. Bureau of Minerals Official Transactions – March 2000
- C. Bureau of Range Management and Surface Leasing Official Transactions for Cropland, Grazing, Cottage Site, Miscellaneous and Submerged Land Leases – March 2000
- D. Timber Sale Official Transactions – March 17, 2000 through April 19, 2000
- E. Bureau of Real Estate, Land Sale Section Official Transactions – March 2000
- F. Bureau of Real Estate, Easement Section – March 2000

2. Timber Sales – Staffed by Ron Litz, Chief, Bureau of Forest Management – see below

- | | | |
|--------------|------------------------|------------------------------|
| A. CR-4-0679 | Lewis Lip | 3,985 MBF – <u>approved</u> |
| B. CR-4-0697 | Deer Flat | 4,000 MBF – <u>approved</u> |
| C. CR-5-0093 | South Fork Olive Creek | 5,025 MBF – <u>withdrawn</u> |

No objection was voiced regarding the withdrawal of Timber Sale C.

3. Minutes – approved

- A. Regular Land Board Meeting – April 11, 2000

4. **Payette Lake Cottage Site Exchange List – Request by James M. Bunn to be added to the Payette Lake Non-Lakefront Cottage Site Exchange List** – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Department staff request Land Board approval to add James M. Bunn's name to the Payette Lake Non-Lakefront Cottage Site Exchange List.

ACTION: Board approved.

5. **Boise River Disclaimer – Request Approval for Disclaimer of Interest to Spurwing Corporation on 3.6 Acres of Accretion Land Adjacent to the Boise River in Ada County** – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: It is recommended that a disclaimer of interest be issued for this parcel of accretion land totaling 3.60 acres of the former bed of the Boise River. This disclaimer of interest will be issued contingent upon the applicant granting to the State of Idaho a disclaimer of interest for 3.29 acres of current riverbed. Also, the applicant will grant to Ada County a 25.00 foot wide permanent greenbelt pedestrian easement for nearly one-half (½) mile along the left (south) boundary of the Boise River. A portion of this easement is within a prescriptive right-of-way of a public road known as Duck Alley Road, which is scheduled for abandonment. The recommended fee is \$600.00.

ACTION: Board approved.

6. **Cropland Rental Rate Modification** – Staffed by Tracy Behrens, Range Management Specialist – approved

DEPARTMENT RECOMMENDATION: The department recommends that the Board adopt the modification to the cropland lease rental determination procedure that provides for the rent to be calculated annually using production figures and market prices from the previous three years. The production information will be provided by the lessees annually on the Cropland Production Report that is provided by the department with the annual lease billing statement.

ACTION: Board approved.

• **REGULAR AGENDA**

7. **Director's Report** – Presented by Stanley F. Hamilton, Director, Department of Lands

Principal Fund Balances as of March 31, 2000:

✓ Public School	\$550,667,808
✓ Pooled	\$251,948,367
✓ Total	\$802,616,175

No action was taken on this agenda item.

- 7a. **Audience with the Board** – Phil Davis, Valley County Commissioner, regarding U.S. Senate Bill 1608

S. 1608 seeks to provide annual payments for the benefit of public schools and roads to counties that contain national Forest System lands managed by the U.S. Forest Service and for

schools, roads and other public purposes for lands managed predominantly by the Bureau of Land Management. S. 1608 also seeks to improve cooperative relationships among the people that use and care for federal lands and the agencies that manage those lands.

Commissioner Davis commented all is not well in rural counties nationwide – especially counties with extreme percentages of federal lands. Valley County is 88% federal, 4% state and 8% private. To fund county government and schools with only 8% private is a huge burden.

Although it will take time to resolve the issues of the economy, the issues of the counties and schools could be resolved to an extent by this bill. The bill would take the average of the highest three years since 1985 and return that dollar figure as a stable income to the counties, either from timber revenues or from unappropriated funds from Congress.

Commissioner Davis feels that it is in the Land Board's best interest to support the bill because the declining timber harvest has created an extreme catastrophic situation in the forest. Those catastrophic situations have been seen in McCall and in other areas. Fires started on forestlands through fuel loadings that are extreme compared to historical levels have burned across state forestlands. The feeling is that if local groups can start talking again with the environmental community on a local level perhaps management can be brought back to the forest.

DISCUSSION: Superintendent Howard remarked that the board recognizes the impact on school districts when they lose timber revenue. For many years a number of Idaho districts did rely on that revenue. As the revenue goes away, the school districts are finding that they are facing financial constraints. With declining revenues in some cases, those districts are trying to figure out how to support their schools in the manner to which they had become accustomed.

Superintendent Howard pointed out that at the same time forests are not equally distributed across the state. For example, Custer County is 4% privately owned and would not benefit at all from this effort.

Superintendent Howard commented when we look at this and we recognize the needs of the timber-dependent communities, we also need to have a thought toward our counties that are also resource dependent but that do not have the advantage of having forestlands. Those counties too have been trying to figure out how to support their schools with their declining economy and with some of the same constraints that are seen in Valley County.

Audience with the Board –*Jane Gorsuch, Intermountain Forest Association (IFA)*

Ms. Gorsuch stated that rural counties in Idaho timber country have suffered greatly with the current federal policy of dramatically declining timber management. This policy has resulted in reduction of timber harvests that are almost greater than 80% in some counties in Idaho. Not only does this have serious adverse effects on forest health and local economy but the school economy suffers as well.

Ms. Gorsuch concluded by stating that this bill maintains the length of forest receipts providing a stable stream of payments to counties to help fund their schools and roads. IFA joins the Idaho Association of Counties, the Idaho School Board Association and the Idaho Association of Commerce and Industry in their support of Senate Bill 1608. IFA sees this bill as an example of good bipartisan legislation showing strong leadership from our senior Senator in collaboration with diverse interest groups to provide the solution for improvements on forest policy. Ms. Gorsuch urged the Land Board to join these groups in support of S. 1608.

DISCUSSION: Governor Kempthorne thanked Commissioner Davis and Ms. Gorsuch for their comments. He stated he has had a number of school students in his office and he has seen how they have continued to face cutbacks in school funding because of a lack of timber sale receipts. The Governor commended Senator Craig for his leadership on this issue.

BOARD ACTION: A motion was made by State Controller Williams to show support for Senate Bill 1608 as a Land Board on behalf of the people of Idaho. Attorney General Lance seconded the motion. The motion carried on a vote of 4-0 with Secretary of State Cenarrusa being absent for this vote.

8. Endowment Fund Investment Report – *Presented by Charlie Saums, Director, Endowment Fund Investment Board*

Director Saums stated that on July 1, 2000 the Endowment Fund Investment Board will be embarking on a totally different program. The endowments will be viewed purely on a market-value basis to establish what the earnings reserve – unrealized and realized gains – will consist of.

DISCUSSION: State Controller Williams commented it is a concern when you have about \$11 million in losses. However, Director Saums has explained that because of the changes being made deferred income will show up under the new system next year that will more than offset this loss.

Superintendent Howard asked Director Saums if the \$25 million in gains referred to were gains in the endowment fund revenue or gains from dollars added to the fund from, for example, timber sales, etc. Director Saums responded that the gains are realized capital gains from the sale of securities.

Superintendent Howard commented she feels the Land Board could be better informed about what is happening and it would be good for the board on an on-going basis to be more aware of any changes in strategy and operational plans, etc. She feels that might be something to take into consideration in terms of inviting a more frequent update.

No action was taken on this agenda item.

9. Appeal of Grazing Lease G-8900 – Ingram – *Presented by Tracy Behrens, Range Management Specialist – deferred one month*

DEPARTMENT RECOMMENDATION: The department recommends that the Board accept the high bid of \$2000 from IWP for the 640 acres of endowment land in cancelled grazing lease G-8900. IWP should be required to continue with the existing cooperative grazing management strategy that allows the state land to be grazed two of every three years using a rest rotation grazing management strategy. As is standard in all grazing leases, no fences or other improvements will be allowed to be constructed without prior approval of the department.

AUDIENCE WITH THE BOARD: Mr. Gary Ingram was granted an audience with the board. Mr. Ingram encouraged the board to look beyond the \$2000 bid by IWP. He feels agriculture and ranching are important facets to the economy of the state. Mr. Ingram asked that the board also look at the working relationship and cooperative management plan in place between the state, BLM and Forest Service.

Mr. Ingram does not feel IWP should be allowed to “cherry pick” certain state sections. He feels all three sections of state land in this allotment should be included. He asked that the board also consider the working relationships with the other ranchers. Most likely there are other ranchers who have state sections in grazing management and action on this lease may affect how things are handled on those other allotments.

Mr. Ingram stated that this state section is very important to the entry of his livestock into the Herd Creek allotment. Mr. Ingram has adjoining BLM allotments. The parcel in question is part of a three-pasture rest-rotation. The parcel is grazed early one year, late the second year and rested the third year. Mr. Ingram expressed a need for access to the state section during each of the three years to get to the other units of the allotment. In addition, Mr. Ingram commented that IWP’s letter indicated it would only take one hour to drive the cattle through the allotment but in reality it would take much more time than that.

DISCUSSION: In referring to the map presented by the Department of Lands, Controller Williams asked if the three marked areas are the three rotation pastures. Mr. Ingram answered yes. He explained that he grazes an area two out of three years so one of the areas is rested. Controller Williams remarked that this is an interesting situation in that the state does not have many parcels like this. About 1/3 of the allotment is BLM land and 2/3 of the allotment is Forest Service land. Then there are 2 1/3 sections of state land.

Controller Williams asked Mr. Ingram if management of the allotment takes the cooperation of all three agencies: BLM, Forest Service and the Department of Lands. Mr. Ingram stated yes.

Superintendent Howard asked Mr. Ingram about his trailing of livestock across the state land to enter the allotment. Mr. Ingram stated he enters the allotment through the state section two out of three years. But on the third year he stated when bringing the cattle home from either of the other two units he still has to return with some cattle through the state section. Mr. Ingram said the cattle go through this way because there is a road. When he enters, he herds the cattle over a ridge and through a canyon. The main road goes up Lake Creek itself.

Superintendent Howard asked if it is possible to skirt the state land entirely. Mr. Ingram stated it would be possible to skirt the state land but it would be a long way around. Superintendent Howard asked about the area terrain. Speaking from the audience, Mrs. Jackie Ingram interjected that Superintendent Howard was asking if it was possible to get off the ridge in any other way. Mrs. Ingram stated it is not possible to do so because the area has very steep rocks and cliffs.

AUDIENCE WITH THE BOARD: Mr. Gene Bray, IWP Board Member, was granted an audience with the board. Mr. Bray stated IWP has indicated in writing a willingness to accommodate trailing across the state section as long as it is active herding. If any fences were put up in conjunction with the Department of Lands those fences would be opened so that trailing could occur and Mr. Ingram's ability to get his cattle in and out of the other areas would not be impeded. If this allotment were like most state sections, it would be one mile across and should not take more than several hours to get the herd through.

Mr. Bray referred to the proposed restriction on IWP's use of this state section. He stated this proposed restriction is "new news." He said it is almost like a "poison pill" that if interested bidders were aware of this restriction in advance of the auction, it would seem to be another case that would "tend to chill the free market process inherent in an open auction system."

In summary, IWP expects the same degree of freedom and use of this leasehold as would be enjoyed by any other successful conflicted bidder.

DISCUSSION: Attorney General Lance commented that the letter received by the board conflicts with the previous proposal. Mr. Bray asked if Attorney General Lance was speaking about the prior grazing management plan. Attorney General Lance stated yes. Mr. Bray stated the latest letter is in response to the "new proposed restriction" so it is an update.

Secretary of State Cenarrusa stated he would like to continue the same question. Mr. Marvel's letter states "IWP notes that the recommendation of your staff in this case does not comport with the management plan submitted by IWP at the auction on February 4, 2000." Secretary of State Cenarrusa feels the last communication does not deal with grazing or a grazing lease. It is more a miscellaneous lease or a special lease of some kind. It seems what IWP plans to do is not in conformance with the grazing management plan.

Mr. Bray responded that if IWP had been successful in this exchange of use with the agencies over this whole area, the available AUMs would only have been reduced by 52 or thereabouts. Pending any sort of fencing arrangement, which would more than likely be just on the creek, the rest of the land would be available under an exchange of use for cattle grazing. Mr. Bray stated grazing after the land has been reasonably rehabilitated is a potentiality and IWP would seek most importantly protection of the riparian areas where the endangered species are dependent on that habitat.

Secretary of State Cenarrusa stated the last communication from IWP also indicates that there would be a permanent fence or an electric fence to keep the stream from being damaged. Secretary of State Cenarrusa said a fence would not keep the stream from being damaged. He stated the impact of the cattle going through that area would put a great amount of impact on the BLM lands on both sides of the creek.

Mr. Bray feels this is the reality of any time leases are changed. The grazing pressures get moved around. Riparian areas tend to be over utilized to the benefit of the uplands. As weed conditions change and leases change hands there are constant adjustments.

State Controller Williams stated he feels there is a conflict over what was agreed to at the time of the auction. He said that it looks like there was an agreement before the auction and that agreement was incorporated into the staff's recommendation. But now IWP's letter of May 8, 2000 indicates that is not the case.

Mr. Bray responded that the department's recommendation seems to force regular grazing on the state section every third year. If IWP can not get agreement to protect the stream, then the exact purpose for which IWP bid \$2000 on the lease is defeated.

Superintendent Howard commented that the letter of February 3rd indicates that IWP was planning to ask for a special use permit for a seasonal camp to provide housing for IWP monitors. Superintendent Howard asked if this would be an on-site camp for people who would provide hazing of the cattle away from the stream. Mr. Bray stated that is correct.

Controller Williams referred Mr. Bray to IWP's letter of May 8, 2000 where the letter states "If IWP is denied the capability to participate in the management of this lease through the physical protection of Lake Creek by temporary or permanent fencing or by other reasonable means by the mandatory terms of a lease approved by the Board..." Controller Williams observed it appears IWP is saying it is being denied the right to use this lease if there are terms in the lease that say the department can regulate use.

Controller Williams continued by stating that the last sentence in the third paragraph of IWP's May 8, 2000 letter says "IWP can only regard that mandate as arbitrary and capricious and a singling out of IWP to prevent our reasonable and constitutional rights to hold and use the lease as provided for by law." Controller Williams commented that clause is in every lease that the department, as authorized by the board, issues. Controller Williams stated he does not understand why IWP considers that clause "arbitrary and capricious."

Mr. Bray stated IWP was attempting to respond to the fact that IWP knows of no other case in a conflict situation with someone new winning the lease that the new lessee was required to observe the cooperative management system that existed before they owned that lease. In almost all cases the management grazing leases are reformulated to suit the current situation.

In other words, IWP is involved in a parcel that is not going to continue, at least according to the way IWP understands it, to be part of and to operate with this kind of cooperative agreement. IWP feels it is not being allowed to extricate meaningfully this particular state section from that grazing management scheme. Nor is IWP being allowed to make any modifications to the allotment.

Based on Mr. Bray's comments, and IWP's May 8, 2000 letter to the board, Governor Kempthorne asked Mr. Bray if the staff recommendation and conditions stand, would IWP request that the board award the lease to Mr. Ingram. Mr. Bray stated no. IWP bid with good intentions and would still like to rest and protect the riparian area.

Superintendent Howard stated that there is an expectation levied upon the board to get maximum return. The discussion today has to do with whether that return is going to be compromised perhaps by handicapping an industry that would have long term return to the state or whether it is not going to be handicapped and we really would have a bigger return from the dollar figure offered in auction. As

she sees it, the auction provided a dollar figure that was greater for IWP. In addition the board heard in the agreement that IWP would not deny access across that land and that trailing could occur. She understands that the rancher is concerned about whether or not the livestock would have access to water as they trailed across that land. She is not sure where the answer is to that question because cattle naturally go to water if they trail across land.

She commented Mr. Bray has stated this is a short-term intervention. IWP's next part was that their agreement really is that the total reduction would be 52 AUMs. But the cattle would still have access to the area and IWP might try to protect the riparian area by the introduction of people who can try to discourage cows from drinking along the areas IWP intends to protect. The next part is if IWP wanted to have any fencing, it would then have to apply to the Department of Lands for permission. IWP would have to show a compelling need. If that is the case, then this is what Superintendent Howard sees as IWP's proposal. She sees the rancher finding that this feels like it is compromising his future access to water. But at this time there is access to water except in which manner IWP could put into place by personnel or by future proving of necessary protection of the streambed. She asked Mr. Bray if that is how he sees IWP's proposal.

Mr. Bray concurred saying Superintendent Howard fairly described the situation. Mr. Bray stated that he does not know where the adjacent water sources are but cattle have no problem going a mile to an alternate water source and they learn that route rather quickly. Mr. Bray believes that when the cattle are being trailed through the area that kind of active trailing, whether it takes half a day or longer, is not going to do that much damage to the riparian area that IWP is trying to protect.

Attorney General Lance commented that the board, under good faith and through the bid process, is entitled to a request for assurances that the conditions under which the bid was accepted are going to be met. Attorney General Lance requested that this agenda item be deferred and that a request for assurances from IWP, its officers, directors, etc., be requested so the board can rely on IWP's prior representations as being accurate representations.

Governor Kempthorne commented the Ingrams have had this lease for 26 years. He asked Mr. Bray if the Ingram rest-rotation process is working or does IWP see it as over grazing and abuse of the land. Mr. Bray responded that generally the rest-rotation process is better than higher kinds of grazing management regimes. Governor Kempthorne observed in this specific case apparently it is working and has worked for some 26 years. Mr. Bray concurred that it has worked but he feels it could work better.

Mr. Behrens referred the board to the Land Board book, attachment #2. Attachment #2 contains the Department of Lands Resource Assessment of this parcel and an estimate of the riparian proper functioning condition. The last page of that assessment indicates that the department's assessment of the stream crossing this parcel of ground rates it in proper functioning condition. There is a statement indicating riparian vegetation was in excellent condition.

Mr. Behrens continued by stating the report shows at the time of the inspection the riparian area had been grazed only lightly. It was the assessment of department staff that the condition of this parcel is very good. In discussing the management of this parcel with the BLM, the BLM expressed satisfaction with the improvement seen on the BLM riparian area also. It is the department's impression that the management of the parcel is working to address any management concerns. Mr. Behrens stated that a copy of the assessment was provided to IWP prior to the lease auction so they were aware of the assessment the department had made.

Governor Kempthorne commented he feels Mr. Behren's information is worth noting. For at least a quarter of a century the Ingram family has been utilizing the land to the point that it is of some value and others would like to have it. It is worth noting that the rotation system is working and that the assessment of the riparian habitat is that it is in good shape. The Governor stated that this ranching family, the Ingram family, has been a good steward of the land.

Controller Williams stated the question that perhaps Mr. Bray can take back to IWP is will IWP accept the conditions that are part of the staff recommendation. Controller Williams feels this is a close case. Based on criteria the board established during the February 8, 2000 regular Land Board meeting, and based on Mr. Marvel's May 8, 2000 letter, Controller Williams feels there is enough information for this case to go either way. Controller Williams commented this lease was a compromise solution so that ranching could continue under best practices. It would also allow experimentation with the riparian areas – which is a critical riparian area.

Mr. Behrens asked if he could clarify a couple of issues. He stated there have been statements made that the department misled IWP by putting in new conditions. In the past when the department had lease auctions the department did require all conflict applicants to submit a statement saying they would abide with any existing management that was in effect. The department has since dropped that policy but the department continues to give each applicant the opportunity to present a proposal prior to the lease auction.

IWP did present their proposal prior to the lease auction. IWP's proposal stated they were looking at solely a slight reduction of animals and they were not proposing fencing at that time. IWP was fully aware of the management that had been going on with that allotment for many years. Prior to the auction, IWP did not address any statements in their proposal about putting in fencing. The department's recommendation was based on the proposal IWP submitted. At this time, it appears IWP wants to change their proposal so it would have the effect of changing the interpretation held by the department. IWP had an opportunity to propose how they would precisely use the ground prior to the auction.

BOARD ACTION: A motion was made by Attorney General Lance to hold this agenda item for one month. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

10. Gooding TB Hospital Surplus Sale – Request to Sell 4.21 Acres of General Fund Property to the City of Gooding – *Presented by Perry A. Whittaker, Chief, Bureau of Real Estate – approved*

DEPARTMENT RECOMMENDATION: Department staff recommends approval to sell the property to the City of Gooding assuming the Board and City can reach agreement on price and terms of sale. Sale processing fees including certificate fee, deed fee, advertising cost and appraisal fee to be paid by the City.

Assuming the sale price and terms of sale are agreed on, staff proposes to develop the advertisement for public hearing outlining the proposed use of the property, terms of sale and sale price as required by Idaho Code 58-332. Unless opposition is expressed at the hearing, staff request authorization to then develop the sales contract with the City of Gooding as per terms approved today by the Board.

DISCUSSION: This agenda item has been discussed in detail at previous board meetings. No discussion was held on this date.

BOARD ACTION: A motion was made by State Controller Williams that the board sell the TB Hospital property to the City of Gooding for \$10.00 and other good and valuable consideration with the conditions that the City pay the processing fees, which includes the certificate fee, the deed recording fee and a four-week advertisement and appraisal fee. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

11. Potential Amendment to Lease M-5015 – Fred Bagley – *Presented by Alvin Carr, Leasing Specialist – deferred one month*

DEPARTMENT RECOMMENDATION: The Department is interested in a resolution of the trespass onto the designated community beach site.

The Department recommends no reduction off the lease rental rate for 1998 and 1999. The Department further recommends a lease adjustment for the remainder of the current lease term beginning January 1, 2000 until December 31, 2004, with the following new conditions:

1. The lease will terminate December 31, 2004. There shall be no consideration for the continued use of the site, or a renewal of the lease.
2. Beginning January 1, 2000, until December 31, 2004, the annual rental shall be in the amount of \$1,050.00 paid annually, in advance, by January 1 of each year.
3. Beginning January 1, 2000, until December 31, 2004, the lease description shall be adjusted to include only that portion of the state land containing the building improvements consisting of approximately 2071 square feet (maps attached).
4. The Lessee shall construct and maintain a two-rail log fence along the new lease perimeter. The construction of the fence shall be completed prior to July 1, 2000. The location of the fence will be marked on the site by the Department to coincide with the adjusted lease description.
5. The Lessee shall remove all building improvements, including the bunkhouse/shed, deck, fireplace, and any other Lessee owned improvements, on the leased land prior to the lease expiration of December 31, 2004.

If Mr. Bagley is not interested in accepting the new lease conditions we recommend the lease be cancelled now and Mr. Bagley be allowed sufficient time to remove his improvements.

AUDIENCE WITH THE BOARD: Mr. Fred Bagley was granted an audience with the board. Mr. Bagley stated he leases Hospital South endowment lands as part of the community beach next to his lot at Payette Lake. His appeal is for a recalculation of the charge of the 1998 and 1999 annual rent using current valid MAI appraised market value times two and a half percent, according to the Land Board's established policy.

To establish the market value for the board's leasing formula, the department hired Mr. Brad Knipe and Mr. Bagley employed Mr. Mark Richey. Both gentlemen are MAI appraisers. Mr. Knipe valued the property at \$190,000; Mr. Richey valued the property at \$30,000. Mr. Bagley feels one of the appraisals is wrong.

Mr. Bagley requested that the Land Board advise the department to accept Mr. Richey's appraisal and that the department should then recalculate the charge for the 1998 and 1999 annual rent at two and one half percent of \$30,000 and refund the excess rent and interest paid for those years.

DISCUSSION: Governor Kempthorne asked Mr. Carr for his insight on the two different appraisals. Mr. Carr stated that both appraisal reports are valid. The difference in value between the appraisals, \$30,000 and \$190,000, is basically highest and best use determination. The question becomes is this lease parcel being used as its designated use – community beach and lawn – or is it in fact being used in conjunction with adjacent ownership and does it have buildings on site.

Director Hamilton stated the parcel was originally leased as a convenience, a courtesy. A trespass had been there for a long time. The board in 1985 felt it was appropriate to lease the parcel. However, Director Hamilton feels the board did envision an end to the lease at some reasonable time. Mr. Bagley has enjoyed the use of this parcel for many years and somewhere that use needs to end.

Governor Kempthorne asked Mr. Bagley if he was in agreement with removal of the improvements. Mr. Bagley stated no. Governor Kempthorne referred to the recommendation. The recommendation states that at the expiration of the lease in 2004, the improvements would be removed. Governor Kempthorne asked Mr. Bagley if he was stating he does not agree and that he does not have any intention of removing the improvements. Mr. Bagley stated he does not wish to remove the improvements.

Mr. Bagley asked the board to redirect their attention to his appeal. He stated now the department is talking about new recommendations that have never been discussed between the department and

Mr. Bagley in any formal way. Mr. Bagley stated he did not know about this recommendation until they were incorporated in a letter back in February. The other recommendations showed up in the board memo last week. Mr. Bagley stated he is trying to focus on appeal of the rent for 1998 and 1999 and to get that matter out of the way. He stated he does have a lot of comments to make about the future use of the property and items that have never been mentioned before.

Governor Kempthorne observed he finds it interesting that Mr. Richey based his appraisal on “non-buildable.” Governor Kempthorne asked if “non-buildable” should be used when the improvements have been built.

Mr. Bagley stated the appraiser was to appraise the land as vacant and unimproved. He stated that is the way the county appraises the land his house sits on. The lot is appraised as a buildable cottage site lot – vacant and unimproved. Then the county appraises the improvements as an addition. Mr. Bagley feels that Mr. Richey appraised the property properly – as vacant. Mr. Richey recognized that the prior Land Board put a limitation on the property that it should not be built on. Mr. Bagley stated the property was built on and what resulted is non-conforming uses. But those uses are not necessarily illegal. Mr. Bagley feels there is no trespass. He stated he has a valid lease and he is not in violation of that lease.

Governor Kempthorne asked Mr. Carr if this proposal would reduce the rental from \$4,750 in the year 2000 to \$1,048. Mr. Carr stated that is correct.

Controller Williams suggested that the board defer this agenda item for one month to allow Mr. Bagley an opportunity to discuss this item in further detail with the department.

BOARD ACTION: A motion was made by State Controller Williams to defer this agenda item for one month. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0 with Secretary of State Cenarrusa being absent for this vote.

- **INFORMATION AGENDA**

Director Hamilton briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

12. Timber Sale Activity Report

The department currently has 170 active timber sale contracts with an estimated residual net volume of 338,379 million board feet with an estimated residual net value of \$107,744,288. The average net selling price of saw timber sold in April was \$264.82. The average selling price for April 1999 was \$228.42.

Lumber markets continue to remain relatively stable. Overproduction is causing price decline in some markets.

Approximately 1169 million board feet were harvested in April 2000 with a value of \$289,541.13.

The department is well along the way to completion of its timber sale plan for the year 2000, which ends June 30, 2000. The department is on track and will accomplish its objectives within a reasonable time.

13. Conflicted Leases – Year 2000 Expiring Grazing Leases

- ❑ A motion was made by Superintendent Howard to resolve into Executive Session at 11:25 a.m. State Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Secretary of State Cenarrusa being absent for this vote.

- **EXECUTIVE SESSION**

14. To Consider Potential Litigation

- ❑ A motion was made by State Controller Williams to resolve into Regular Session at 12:00 p.m. Attorney General Lance seconded the motion. The motion carried on a vote of 4-0 with Secretary of State Cenarrusa being absent for this vote.

Upon return to Regular Session, and there being no further business to come before the board, the meeting adjourned at 12:00 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/

Pete T. Cenarrusa
Secretary of State

/s/

Stanley F. Hamilton
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the June 22, 2000 Special Land Board meeting.